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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/823,994	04/13/2004	Yuji Ota	09657/0200614-US0	5002
7278	7590	02/10/2009		
DARBY & DARBY P.C. P.O. BOX 770 Church Street Station New York, NY 10008-0770			EXAMINER HOEY, ALISSA L	
			ART UNIT	PAPER NUMBER
			3765	
			MAIL DATE	DELIVERY MODE
			02/10/2009 PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/823,994

**Applicant(s)**

OTA ET AL.

**Examiner**

Alissa L. Hoey

**Art Unit**

3765

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 December 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 6, 9-14 and 18-46 is/are pending in the application.
- 4a) Of the above claim(s) 9-14, 18-27, 31-34, 36, 37 and 44 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 38-43, 45 and 46 is/are allowed.
- 6) ☒ Claim(s) 1, 3, 6, 28-30 and 35 is/are rejected.
- 7) ☒ Claim(s) 4 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-848)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

This is in response to amendment received on 12/02/08. claims 1, 29, 30, 38 and 46 have been amended. Claims 1-4, 6, 28-30, 35, 38-43, 45 and 46 are examined below.

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 3, 6, 28-30 and 35 are rejected under 35 U.S.C. 102(b) as being anticipated by Dicker et al. (US 5,737,773).

Dicker et al. teaches the following:

1. (Currently Amended) A pants garment, comprising:  
left and right leg members for covering the left and right thigh and leg areas of a wearer, each leg member independently comprising a first stretchable portion and a second stretchable portion (figures 4 and 5),  
wherein said second stretchable portions have a greater tightening force for applying greater pressure than said first stretchable portions (column 2, lines 1-37), and  
independently include a front second stretchable portion (figure 4, identifier 36) provided at a front side of each of the leg members (figure 4), said front second stretchable portion extending obliquely from an upper front portion to a lower front portion of each

leg member (figure 4, identifier 36), and a back second stretchable portion (figure 5, identifier 36) provided at a back side of each of the leg members (figure 5), said back second stretchable portion extending obliquely from an upper back portion to a lower back portion of each leg member (figure 5, identifier 36), wherein at least either one of the left leg member or the right leg member has the front second stretchable portion (figure 4, identifier 36) extending continuously along the front side from an outer waist portion, along a front outer hip portion (figure 4), to an inner lower knee portion of the left or right leg member ~~and then to an outer portion near the ankle~~ portion, respectively (figure 4), and wherein the back second stretchable portion extends from an inner upper portion to an outer lower portion of each leg member (figure 5, identifier 36).

3. (Previously Presented) A garment as defined in claim 1, wherein at least either one of the left leg member or the right leg member has the front second stretchable portion and the back second stretchable portion inclined in the same direction (see figures 4 and 5).

6. (Previously Presented) A garment as defined in claim 1, wherein at least either one of the left leg member or the right leg member has the front second stretchable portion extending to a position corresponding to the left or right greater trochanter of a wearer, respectively (figure 4, identifier 36).

28. (Previously Presented) A garment as defined in claim 1, wherein the front second stretchable portion extends from the lower part of the inside of the corresponding thigh to the corresponding greater trochanter via the upper part of the

front surface of the corresponding thigh, and wherein said front second stretchable portion is curved in an indented shape toward the upper part of the corresponding thigh (figure 4, identifier 36).

29. (Currently Amended) A garment with a crotch for covering at least part of the lower half of a body, comprising:

a band-like pressure portion at least has (36), at a front side portion corresponding to the front side of a thigh, a thigh front side pressure portion formed obliquely from above to below the front side portion, and, at a rear side portion corresponding to the rear side of the thigh, a thigh rear side pressure portion formed obliquely from above to below the rear side portion (figures 4 and 5, identifier 36),

wherein the thigh front side pressure portion extends continuously along the front side from an outer waist[[upper]] portion, along a front outer hip portion, to an inner ankle portion of the left or right thigh leg member, respectively, and

wherein the thigh rear side pressure portion extends from an inner upper portion to an outer lower portion of each thigh leg member (figures 4 and 5, identifier 36).

30. (Currently Amended) A garment with a crotch for covering at least part of a lower half of a body, comprising:

a band-like pressure portion (36) at least has, at a front side portion corresponding to a front side of a crus (figure 4), a crus front side pressure portion formed obliquely from above to below the front side portion (figure 4, identifier 36) and, at a rear side portion (figure 5) corresponding to a rear side of the crus, a crus rear side pressure portion formed obliquely from above to below the rear side portion (figure 5, identifier 36)

wherein the garment extends from a waist portion, along a front outer hip portion, to an ankle portion (figures 4 and 5).

35. (Previously Presented) A garment as defined in claim 1, further comprising: left and right pelvic members attached to said leg members for covering the right and left pelvic areas of a wearer (figure 4).

***Allowable Subject Matter***

3. Claim 4 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
4. Claims 38-43, 45 and 46 are allowed.

***Response to Arguments***

5. Applicant's arguments with respect to claims 1-4, 6, 28-30 and 35 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure and can be found cited in PTO-892 form submitted herewith.
7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alissa L. Hoey whose telephone number is (571) 272-4985. The examiner can normally be reached on M-F (8:00-5:30)Second Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Welch can be reached on (571) 272-4996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Alissa L. Hoey/  
Primary Examiner, Art Unit 3765